

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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CLYDE MEANS,

Case No. 3:13-cv-0224-MMD-WGC

Petitioner,

ORDER

v.

ROBERT LEGRAND, *et al.*,

Respondents.

Before the Court is petitioner's motion to reconsider this Court's dismissal of his habeas action. Dkt. no. 5. Petitioner also provides an application to proceed in *forma pauperis*. Dkt. no. 6.

Rule 60(b)(6) affords courts the discretion and power "to vacate judgments whenever such action is appropriate to accomplish justice." *Phelps v. Alameida*, 569 F.3d 1120, 1135 (9th Cir.2009). Relief under Rule 60(b)(6) requires the moving party to make a showing of "extraordinary circumstances." *Gonzalez v. Crosby*, 545 U.S. 524, 535, 125 S.Ct. 2641 (2005). "Such circumstances will rarely occur in the habeas context," and Rule 60(b) proceedings are subject to only limited and deferential appellate review." *Id.*


The matter was dismissed without prejudice because it did not appear that petitioner had paid the filing fee or submitted a completed application to proceed in *forma pauperis*. Rather than file a new action, petitioner moves the Court to reconsider the dismissal. Based on the representations made by petitioner, a closer review of the

1 documents submitted reveals that petitioner did submit an application. However, it did  
2 not include the required record of his accounts and the financial certificate was not the  
3 proper form. See Dkt no. 1-3. The second application is also incomplete, missing similar  
4 components.

5 IT IS THEREFORE ORDERED that the motion for reconsideration (dkt. no. 5) is  
6 DENIED.

7 IT IS FURTHER ORDERED that the Clerk shall send petitioner a copy of the  
8 petition and other documents submitted with the petition. The Clerk shall also send  
9 petitioner a form and instructions for filing an application to proceed in *forma pauperis* in  
10 this federal court.

11 DATED this 3<sup>rd</sup> day of September 2013.

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14 MIRANDA M. DU  
15 UNITED STATES DISTRICT JUDGE  
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